

Notice of Allowability

Application No.

09/966,352

Examiner

Kaj K Olsen

Applicant(s)

HERBERT, BEN

Art Unit

1753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the IDS and RCE of 10-18-2004.
2. ☒ The allowed claim(s) is/are 1-7.
3. ☒ The drawings filed on 7-21-04 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance: The allowability of claims 1-7 has been confirmed. A foreign search report indicated that reference WO 00/02039 was a 'X' reference on the claims 1-7. However, the examiner does not believe this reference anticipates nor renders obvious all the limitations of claims 1-7. In particular, WO '039 taught the use of an isolation member 9 that was placed between the first and second dimensions of the electrophoretic apparatus. The isolation member was either removed or evacuated of fluid after the first separation and the remaining gap was then filled with conductive fluid. See page 12, line 23 through page 13, line 7 and page 26, lines 32 and 33. However, this isolation member does not read on the claimed requirement of a "non-electrically conducting liquid which is substantially immiscible with, and non-extractive of, water". Moreover, this process of WO '039 also would not anticipate the claimed step of "flushing the liquid out from the gap" because the any fluid in the isolation member would merely be evacuated and not flushed. Moreover, WO '039 does not teach the claimed step of tilting the support means at an angle to the horizontal to effect flushing the liquid out of the gap. The only thing the examiner can find about tilting is on page 8 paragraph 2 (cited by the foreign examiner) where a prior art two-dimensional electrophoresis apparatus is described as being rotated from a horizontal position to a vertical position after the first dimension separation. However, this does not appear to anticipate nor render obvious the claimed tilting because the first dimension would still be horizontal and not at an angle to the horizontal as claimed. The patentability of claims 1-7 is confirmed.

2. The examiner has crossed off two of the cited patents because those patents had been previously cited by the examiner and their inclusion on this IDS is redundant.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kaj Olsen whose telephone number is (571) 272-1344. The examiner can normally be reached on Monday through Thursday from 5:30 A.M. to 3:00 P.M. and on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen, can be reached on 571-272-1342. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AU 1753
November 23, 2004


KAJ K. OLSEN
PRIMARY EXAMINER